

**Amendment and Response**

Applicant: Gerome A. Haney

Serial No.: 10/629,005

Filed: July 29, 2003

Docket No.: 10990836-3

Title: RACK MOUNT ASSEMBLY

**REMARKS**

The following remarks are made in response to the Non-Final Office Action mailed February 25, 2004 in which claims 2-41 were rejected. With this Amendment, claims 1-9, 23, 37, 39, and 40 have been cancelled without prejudice and claims 10, 24, and 38 have been amended to clarify Applicant's invention. Claims 10-22, 24-36, 38, and 41, therefore, are presented for reconsideration and allowance.

**Claim Rejections under 35 U.S.C. § 112**

Claims 2-9, 23, and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

With this Amendment, claims 2-9, 23, and 37 have been cancelled without prejudice. The rejection of claims 2-9, 23, and 37 under 35 U.S.C. 112, second paragraph, therefore, is rendered moot.

**Claim Rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103**

Claims 10-15, 17-21, 23, 24-29, 31-35, 37, and 38-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Kofstad U.S. Patent No. 5,833,337. Claims 22 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kofstad in view of Harrington et al. U.S. Patent No. 2,927,652.

With this Amendment, independent claim 10 has been amended to recite that the first and second mounting flanges contact the opposing column flanges when the rack mount is in a first position between the opposing column flanges, the first and second alignment protrusions contact and slide relative to the opposing column flanges when the rack mount is in a second position between the opposing column flanges, and the first and second alignment protrusions engage the flange apertures when the rack mount is in a third position between the opposing column flanges. In addition, independent claims 10 and 24 have been amended to clarify that the second position of the rack mount is between the first position of the rack mount and the third position of the rack mount. As such, independent claims 10 and 24 each positively recite that the first and second mounting flanges contact the opposing column flanges when the rack mount is in a first position between the opposing column flanges, the first and second alignment protrusions contact and slide relative to the opposing column

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flanges when the rack mount is in a second position between the opposing column flanges, and the first and second alignment protrusions engage the flange apertures when the rack mount is in a third position between the opposing column flanges, wherein the second position of the rack mount is between the first position of the rack mount and the third position of the rack mount.

With this Amendment, independent claim 38 has been amended to clarify that positioning the rack mount assembly to span the opposing column flanges of the rack system includes adjusting a length of the rack mount assembly between the mounting flanges and contacting the opposing column flanges with the mounting flanges of the rack mount assembly, and that sliding the rack mount assembly relative to the opposing column flanges includes contacting the opposing column flanges with alignment protrusions formed on the mounting flanges of the rack mount assembly and sliding the alignment protrusions along a surface of the opposing column flanges.

With respect to the Kofstad and Harrington et al. patents, neither of these patents, individually or in combination, teach or suggest a rack mount assembly, as claimed in amended independent claim 10, a rack system, as claimed in amended independent claim 24, nor a method of mounting a rack mount assembly, as claimed in amended independent claim 38.

In view of the above, Applicant submits that independent claims 10, 24, and 38 are each patentably distinct from the Kofstad and Harrington et al. patents and, therefore, are in a condition for allowance. Furthermore, as dependent claims 11-22 further define patentably distinct claim 10, dependent claims 25-36 further define patentably distinct claim 24, and dependent claim 41 further defines patentably distinct claim 38, Applicant submits that dependent claims 11-22, 25-36, and 41 are also in a condition for allowance. Applicant, therefore, respectfully requests that the rejections of claims 10-15, 17-21, 23, 24-29, 31-35, 37, and 38-41 under 35 U.S.C. 102(b), and claims 22 and 36 under 35 U.S.C. 103(a) be reconsidered and withdrawn and that claims 10-22, 24-36, 38, and 41 be allowed.

**Double Patenting**

Claims 10, 16, 11-15, and 18-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No.

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6,681,942. Claims 24, 30, 25-29, and 32-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-22 of U.S. Patent No. 6,681,942.

Concurrently with this Amendment, a terminal disclaimer in compliance with 37 CFR 1.321(c) has been filed to overcome the double patenting rejection based on U.S. Patent No. 6,681,942.

In view of the above, Applicant submits that the double patenting rejections of claims 10, 16, 11-15, and 18-22 and claims 24, 30, 25-29, and 32-36 have been overcome. Applicant, therefore, respectfully requests that the rejections of claims 10, 16, 11-15, and 18-22 and claims 24, 30, 25-29, and 32-36 under the judicially created doctrine of obviousness-type double patenting be reconsidered and withdrawn and that claims 10, 16, 11-15, and 18-22 and claims 24, 30, 25-29, and 32-36 be allowed. Applicant submits that the filing of this terminal disclaimer is to obviate the rejection based on non-statutory double patenting and is not an admission of the propriety of the rejection.

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**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 10-22, 24-36, 38, and 41 are all in a condition for allowance and requests reconsideration of the application and allowance of all pending claims.

Any inquiry regarding this Amendment and Response should be directed to either Robert D. Wasson at Telephone No. (360) 212-2338, Facsimile No. (858) 655-5859 or Scott A. Lund at Telephone No. (612) 573-2006, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

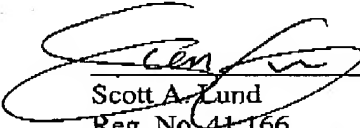
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Respectfully submitted,

Gerome A. Haney,

By,

Date: May 11, 2004  
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**CERTIFICATE UNDER 37 C.F.R. 1.8:** The undersigned hereby certifies that this paper or papers, as described herein, are being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306 on this 11th day of May, 2004.

By   
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Name: Scott A. Lund